IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 34139 of 2006(L)

PETITIONER:

K.K.RAGHAVAN, AGED 75 YEARS,
KUNDUVARAVALAPPIL HOUSE, VADOOKARA,
THRISSUR TALUK AND DISTRICT.

BY ADV. SRI.C.D.DILEEP
SRI.RENJITH XAVIER

RESPONDENTS:
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1. **ACCOUNT GENERAL (A & E),**
   KERALA, THIRUVANANTHAPURAM.

2. **KERALA STATE, REPRESENTED BY**
   ITS CHIEF SECRETARY TO GOVERNMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

3. **CHIEF ENGINEER,**
   MINOR IRRIGATION DEPARTMENT,
   THIRUVANANTHAPURAM.

4. **SECRETARY,**
   FINANCE (SPECIAL PAY REVISION CELL) DEPARTMENT,
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.MANOJ KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

tss

W.P.(C) NO.34139/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PENSION BOOK OF THE PETITIONER ISSUED BY THE 1ST RESPONDENT DT. NIL.

EXT.P2:- COPY OF THE GOVERNMENT ORDER G.O.(P) NO.670/89/FIN, DT. 26.12.89.

EXT.P3:- COPY OF THE ABOVE ORDER G.O.(P) NO.403/90/(49)/ FIN DT. 27.7.90.

EXT.P4:- COPY OF THE REPRESENTATION TO THE 1ST RESPONDENT DT. 11.9.06.

EXT.P5:- COPY OF THE REPLY OF 1ST RESPONDENT DT. 22.9.06.

EXT.P6:- COPY OF THE REVISED PENSION PAYMENT ORDER ISSUED BY THE 1ST RESPONDENT DT. 9.10.06.

EXT.P7:- COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT DENYING EXT.P6 ORDER , DT. 1.7.10.06.

EXT.P8:- COPY OF THE REPRESENTATION FILED BY THE PETITIONER TO THE 1ST RESPONDENT TO REVIEW THE EXT.P7 DT. 7.11.06.

/TRUE COPY/

P.S. TO JUDGE

tss

V.GIRI, J.

W.P.C.NO.34139 OF 2006 L

Dated this, the 10th September, 2007.

JUDGMENT

The petitioner, who entered service on 7.7.1951, retired from the Minor Irrigation Department as a Work Superintendent on 30.4.1987. His average emoluments, at the time of retirement, was Rs.1,304/-. He was sanctioned a pension of Rs.637/- which was the existing pension at the time when the Vth Pay Commission Report was approved by the Government and directed to be implemented.

2. Ext.P2 which was issued by the Government in the matter of implementation of the recommendations of the Vth Pay Commission and allied benefits, inter alia, contemplated an ad hoc increase of pension, as provided in para 4 thereof. But, apparently, the said ad hoc increase was restricted to those who retired upto 30.6.1983. An objection was raised by the petitioner, who retired after 30.6.1983 and this resulted in Ext.P3. The ad hoc increase that was admissible to those persons, who retired before 30.6.1983 was taken note of and the fact that such increase is not available to persons who retired after 30.6.1983 was also taken note of. Thereafter the Government ordered in Ext.P3 as follows:

> **"Government are now pleased to order as follows:**
>
> **(i) A minimum increase of Rs.30/- will be ensured on basic pension of all state service pensioners who retired from service prior to 1.7.1988. Accordingly, in those cases where the total of ad hoc increase admissible under para 4**

of G.O.(P)670/89/Fin. Dated 26.12.1989 plus the difference due to application of 50% formula for calculation of pension under paras 6 & 7 ibid works out to less than Rs.30/-, that will be stepped upto Rs.30/- ....."

3. Essentially, it is made clear that the pensioners who retired upto 1.7.1988 was to be benefited in such a manner that there is a stepping up of the pension by Rs.30/- and such stepping was available irrespective of whether the pensioner was the beneficiary of an ad hoc increase as contemplated by Ext.P2. Where an increase is available to the pensioner, the quantum of ad hoc increase was considered and it was raised upto Rs.30/-. But where ad hoc increase was not available by reason of the fact that the pensioner had retired after 30.6.1983, he was given an increase of Rs.30/-. This was done in the case of the petitioner.

4. According to the petitioner, the increase of Rs.30/- was given to him after applying the 50% formula provided for in Ext.P2. He, therefore, contended that the revised pension with effect form 1.7.1988 should have been fixed at Rs.870/- by taking the basic pension as Rs.652/- adding 608 points towards dearness allowance computed at Rs.188/- and then further adding Rs.30/- to the same aggregating to Rs.870/- [vide Ext.P8]. Fifty percent of the average emoluments drawn by the petitioner comes to Rs.652/-.

The existing pension was Rs.637/-. The minimum benefit to be allowed as per para 5 of Ext.P3 was Rs.30/-. If all the three are taken together, the amount comes to Rs.855/- and this was the eligible revised pension of the petitioner. This has been granted to him as well.

The benefit claimed by the petitioner was essentially to identify the pension that will be admissible after applying the 50% formula and then add Rs.30/- to the same, apart from the Dearness Allowance etc. This is not contemplated by para 5 of Ext.P2. A reading of the statement filed by the Government shows that the pension has been correctly calculated in the following manner.

SL.NO.	***DETAILS***	***AMOUNT***
1	Average emoluments	Rs.1,304/-
2	Pension applying 50% formula-1304 x 50/100	Rs.652/-
3	Existing pension	Rs.637/-
4	Difference due to application of 50% formula	Rs.15/-
5	Minimum benefit to be allowed	Rs.30/-
6	DA at 608 points	Rs.188/-
7	Ad hoc increase	Nil
8	Total of 3,5,6 & 7	Rs.855/-
	Eligible revised pension	Rs.855/-

I find that in Ext.P3 Government correctly applied its mind in fixing the pension of the petitioner. The same does not warrant any interference. The writ petition is devoid of any merits and it is dismissed.

Sd/-
(**V.GIRI)**
JUDGE

sk/-

//true copy//

V.GIRI, J.

W.P.C.NO.34139 of 2006 L

JUDGMENT

10TH September, 2007.